

## REMARKS

Claims 28, 29, 30, 31, and 32 are objected to because of the following informalities: the word “include” in line 2 of the aforementioned claims should be --includes--. Applicant has amended claims 28, 29, 30, 31, and 32 as suggested by the Examiner.

Claims 24 - 32 and claim 34 are rejected under 35 USC 112 first paragraph as failing to comply with the written description requirement. The Examiner contends that means for delivery of a therapeutic drug is new matter not originally disclosed as part of the apparatus. The Examiner has allowed claim 33 including the limitation of “ a drug for moderating the degree of blood flow cooling”. Applicant has amended independent claim 24 and independent claim 34 by deleting the words “means including”. The amended claims 24-32 and 34 are presently limited to a drug for moderating the degree of blood flow cooling as described on page 8, lines 19 and 20 of the specification.

Claims 24-27 are rejected under 35 U. S. C. 103(a) as being unpatentable over U. S. Patent 4,931,047 to Baldwin et al. in view of U. S. Patent 6,165,172 to Farley et al. The Examiner stated that “(N)either Broadwin et al. nor Weber teach a means for delivery of a drug with the energy”. Applicant submits the prior art fails to disclose the allowable subject matter of a drug for moderating the degree of blood flow cooling as claimed in amended claims 24-27

Claims 28-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 4,931,047 to Broadwin et al. in view of U.S. Patent 6,203,540 to Weber in view of U.S. Patent 6,165,172 to Farley et al., as applied to claim 24 above, and further in view of U.S. Patent 6,506,189 to Rittman et al. Applicant submits that claims 28-30 are dependent on claim 24 and that none of the cited prior art disclose a drug for moderating the degree of drug flow cooling as claimed in amended claim 24.

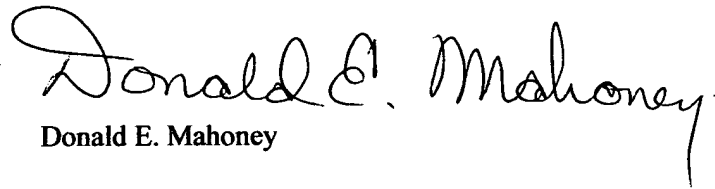
Claims 31 and 32 are rejected under 35 U.S. C. 103(a) as being unpatentable over U.S. Patent

4,931,047 to Broadwin et al. in view of U.S. Patent 6,203,540 to Weber in view of U.S. Patent 6,165,172 to Farley et al. as applied to claim 24 above, and further in view of U.S. Patent 5,891,134 to Goble et al. Applicant submits that claims 31 and 32 are dependent on claim 24 and that none of the cited prior art disclose a drug for moderating the degree of blood flow cooling as claimed in amended claim 24.

For the foregoing reasons, Applicant submits that amended claims 24-32 and amended claim 34 are in condition for allowance. Reconsideration of the rejection and favorable action is requested.

Respectfully submitted

By



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